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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/758,269	01/12/2001	Satoshi Iuchi	3914-3	9211

23117 7590 12/03/2003

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EXAMINER

COLLINS, CYNTHIA E

ART UNIT	PAPER NUMBER
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1638

DATE MAILED: 12/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application N .

09/758,269

Applicant(s)

IUCHI ET AL.

Examiner

Cynthia Collins

Art Unit

1638

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 23 September 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☒ Applicant's reply has overcome the following rejection(s): See Continuation Sheet.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:


Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 5-22.

Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____


PHUONG T. BUI 11/12/03
PRIMARY EXAMINER

Art Unit: 1638

Continuation of 2. NOTE: the amendment raises new issues under 35 USC 112, 1st paragraph, because newly added claim 23 is directed to a new method requiring the use of an antisense oligonucleotide, which has not been previously considered.

Continuation of 3. Applicant's reply has overcome the following rejection(s): the rejection of claims 1, 7 and 19 under 35 U.S.C. 112, second paragraph, as being indefinite in the recitation of "gene".

Continuation of 5. does NOT place the application in condition for allowance because: isolated DNA molecules encoding proteins having neoxanthin cleavage activity and comprising an amino acid sequence having up to ten conservative amino acid substitutions are not enabled; a plant simultaneously having both increased and decreased levels of expression of an isolated DNA encoding a protein having neoxanthin cleavage activity is not enabled; a plant simultaneously having both increased and decreased amounts of abscisic acid is not enabled; a plant simultaneously having both increased and decreased tolerance to any unspecified stress is not enabled; methods for increasing the tolerance of a plant to any unspecified stress by expressing in a plant a protein having neoxanthin cleavage activity are not enabled. The limited disclosure that expression of the *Arabidopsis* AtNCED3 DNA of SEQ ID NO:5 in a sense orientation in transgenic *Arabidopsis* plants increases AtNCED3 mRNA expression, increases abscisic acid levels, and increases drought stress tolerance, and that expression of the *Arabidopsis* AtNCED3 DNA of SEQ ID NO:5 in an antisense orientation in transgenic *Arabidopsis* plants decreases AtNCED3 mRNA expression, decreases abscisic acid levels, and decreases drought stress tolerance, does not provide sufficient guidance for one skilled in the art to make and/or use the claimed invention commensurate in scope with the rejected claims.